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March 9, 1999

VIA COURIER

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington,, D.C. 20554

Re: NorthPoint Communications - *Ex Parte* Filing in CC Docket No. 98-184

Dear Secretary Salas:

Pursuant to Section 1.1206(b) of the Commission's rules and the Commission's Public Notice, DA 98-2035, enclosed please find an original and two copies of NorthPoint Communications's ("NorthPoint's"), *ex parte* filing for inclusion in the above-referenced proceeding. The attached pleading of NorthPoint was submitted in the Commission's proceeding seeking comments on Bell Atlantic's Report regarding its compliance with the Bell Atlantic/NYNEX merger conditions (File No. AAD 99-296). In its comments, NorthPoint urges the Commission to consider Bell Atlantic's failure to meet the conditions imposed in the Bell Atlantic/NYNEX merger in making its determination on the Bell Atlantic/GTE transaction.

If you should have any questions regarding this submission, please do not hesitate to contact us.

Very truly yours,

Richard M. Rindler
Kathy L. Cooper

Counsel for NorthPoint Communications

cc: Janice Myles
ITS, Inc.
Michael Olsen

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	DA 99-296
Report of Bell Atlantic on	)	File No. AAD 98-24
Compliance with the Bell Atlantic/	)	
NYNEX Merger Order Conditions	)	

COMMENTS OF NORTHPOINT COMMUNICATIONS

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Dated: March 8, 1999

SUMMARY

With these comments, NorthPoint demonstrates that Bell Atlantic has not complied with the conditions set forth in the Commission's order approving the Bell Atlantic/NYNEX merger. Bell Atlantic's non-compliance with these conditions serves to impede true local competition in the post-merger Bell Atlantic region and undermines consumers' legitimate interests in obtaining access to high quality advanced telecommunications services. In the case of NorthPoint's provision of Digital Subscriber Line ("DSL") services, Bell Atlantic's actions are particularly egregious because Bell Atlantic's noncompliance serves to "gate" DSL competitors, such as NorthPoint, so that Bell Atlantic can use its control of the public network to ensure its own advantage in the DSL services market.

As a condition to approving the Bell Atlantic/NYNEX merger, the Commission required the Bell Atlantic and NYNEX to agree to certain commitments, which are aimed at mitigating the negative effects of the merger that, without the conditions, was contrary to the public interest. As explained in detail in these comments, NorthPoint has experienced the following difficulties with Bell Atlantic that clearly reflect Bell Atlantic's non-compliance with the merger conditions governing OSS interfaces and performance standards: (1) Bell Atlantic's GUI interface does not provide carriers with the pre-ordering and order access they need; (2) Bell Atlantic declines to acknowledge existing provisioning intervals for unbundled loops; (3) Bell Atlantic fails to provide critical demarcation information; (4) Bell Atlantic fails to test newly installed unbundled loop circuits; (5) Bell Atlantic fails to provide necessary pre-ordering information; (6) Bell Atlantic's provision of collocation space is either delivered late, incomplete or on an unconfirmed basis; and (7) Bell Atlantic fails to provide Carrier Facilities Assignments.

Because Bell Atlantic has failed to comply with the conditions set forth in the Commission's merger order, the Commission must adopt specific enforcement measures to ensure that the existing conditions are met. In addition to extending the sunset provision for these conditions, the Commission also should consider imposing additional conditions on Bell Atlantic. The Commission also can consider sanctions, such as the award of damages, the imposition of forfeitures and the revocation of some or all of Bell Atlantic's licenses. In addition, Bell Atlantic's failure to meet the conditions imposed in the Bell Atlantic/NYNEX merger, should be a critical factor in the Commission's decision governing the Bell Atlantic/GTE merger.

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COMMENTS OF NORTHPOINT COMMUNICATIONS

NorthPoint Communications ("NorthPoint"), by its undersigned attorneys and pursuant to the Commission's Public Notice, DA 99-296, released February 5, 1999, hereby submits these comments on the Report of Bell Atlantic on its "compliance" with the Bell Atlantic/NYNEX conditions ("Report") as set forth in the Commission's Order approving the merger ("Merger Order").[1] NorthPoint demonstrates in these comments that Bell Atlantic has not complied with the conditions set forth in the Commission's Merger Order. Bell Atlantic's non-compliance serves to impede true local exchange competition in the post-merger Bell Atlantic region and undermines consumers' legitimate interests in obtaining access to high quality advanced telecommunications services.

Bell Atlantic's failure to comply with the merger conditions is more than a theoretical lapse; Bell Atlantic's policies and practices have a substantial, detrimental and practical impact on the daily operations of NorthPoint in the Bell Atlantic region. For example, because Bell Atlantic's DCAS ordering GUI does not work and fails to provide consistent responses to

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[1] *In the Applications of NYNEX Corporation, Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of NYNEX Corporation and its Subsidiaries*, File No. NSD-L-96-10, FCC 97-286 (rel. Aug. 14, 1997).

NorthPoint's unbundled network element ('UNE") loop orders, NorthPoint provisioners must manually track – by telephoning Bell Atlantic technicians and provisioners – *every single NorthPoint loop order* from the day the order is placed until the day it is installed. But even this is not adequate to compensate for Bell Atlantic's failures. Since January 1, 1999, according to NorthPoint records, Bell Atlantic has missed more than 20% of its committed install dates, causing frustration for end users and a deterioration in the perceived quality of *NorthPoint's* services.

I. SUMMARY AND BACKGROUND

NorthPoint provides wholesale broadband telecommunications services to Network Service Providers ("NSPs"). NorthPoint's network is designed and built to carry data traffic from end-users to NorthPoint's NSP customers utilizing several types of Digital Subscriber Line ("DSL") technology. NorthPoint is an innovator in the provision of DSL services to small-business and residential customers. DSL technology provides consumers with high-speed, broadband access for their network and Internet services. Demand for DSL services is growing and is increasingly perceived as essential to the data services market.

NorthPoint provides its DSL service through a combination of its own network facilities as well as unbundled loops and transport. NorthPoint's DSL service requires "clean cooper" loops, free of bridge-taps, load coils, fiber optics, or intervening electronics such as UDLCs and IDLCs. With such unbundled "DSL-capable" loops, NorthPoint can provide DSL service at lengths of up to 23,000 feet from the central office. NorthPoint currently is providing its services in 12 markets and is expanding to 28 markets by the end of 1999.

NorthPoint's goal is to enter the DSL market quickly and often as the first to provide these cost-effective, high quality broadband services. Bell Atlantic's anti-competitive actions, however, effectively deny NorthPoint the benefits of being first to market. The combined effect of Bell Atlantic's anti-competitive policies and "error" prone provisioning undermines NorthPoint's ability to enter the DSL market and effectively compete, while allowing Bell Atlantic a clear competitive advantage. As discussed below, Bell Atlantic's actions in refusing to provide DSL capable loops in New York until Bell Atlantic is in a position to offer the service on an unbundled basis have been particularly egregious because these actions serve to "gate" competitors so that Bell Atlantic can use its control of the public network to ensure its own advantage in the DSL services market.

Because Bell Atlantic has failed to comply with the Merger Order conditions, the Commission must adopt specific enforcement measures to ensure that the existing conditions are met. The Commission should also consider imposing additional conditions on Bell Atlantic. Under the Merger Order, the Commission also can consider sanctions, such as the award of damages, the imposition of forfeitures, and the revocation of some or all of Bell Atlantic's licenses. In addition, Bell Atlantic's noncompliance with the Merger Order conditions should be a critical factor in the Commission's consideration of the Bell Atlantic/GTE merger. Otherwise, true local exchange competition may never be realized.

II. THE COMMISSION'S BELL ATLANTIC/NYNEX MERGER ORDER

In its decision approving the Bell Atlantic/NYNEX merger, the Commission held that the Bell Atlantic/NYNEX merger would likely eliminate Bell Atlantic as a competitor to NYNEX and therefore would impede competition. Merger Order at para. 43. The Commission also found that barriers to entry were not sufficiently low so that actual or potential competitors could offset the market power resulting from the merger. *Id.* at para. 46. Thus, the Commission found that the merger "on its terms alone" failed to meet the public interest standard. Merger Order at paras. 6, 12.

Realizing that the merger would not pass muster at the Commission, Bell Atlantic and NYNEX offered several commitments in exchange for approval of the transaction. Merger Order at para. 12. Thus, as a condition to approving the transaction, the Commission required Bell Atlantic and NYNEX to agreed to these commitments, which are aimed at mitigating the negative effects of the merger. *Id.* at para. 113. It is the conditions that were imposed on Bell Atlantic/NYNEX, and to which the applicants agreed, that allowed the Commission to find, nonetheless, that the transaction was in the public interest (and even then the Commission found it to be a "close case"). *Id.* at 12.

The focus of the conditions imposed on Bell Atlantic/NYNEX is to "help to mitigate the ability of the merged entity unilaterally to exercise market power" and "increase the ability of precluded firms to become significant market participants." The conditions were designed to: (1) "reduce the risk to competitors of receiving inferior access and interconnection"; (2) "reduce the time and expense associated with OSS development"; (3) "make it more feasible to use unbundled transport facilities"; and (4) "facilitate the ability of competing carriers to make investment and pricing decisions based on a cost structure that more accurately reflects the true economic cost of the facilities and services obtained from Bell Atlantic-NYNEX." *Id.*

The goals of these conditions, however, have yet to be realized by competitors because Bell Atlantic has not complied with these conditions as required under the Commission's Merger Order. NorthPoint has experienced many difficulties with Bell Atlantic's services from problems with Bell Atlantic's OSS interfaces for pre-ordering and ordering to Bell Atlantic's shoddy performance in providing ordering, provisioning and network services. Below, NorthPoint provides the Commission with specific evidence of Bell Atlantic's non-compliance with the merger conditions and outlines proposals for addressing this non-compliance.

III. BELL ATLANTIC HAS FAILED TO COMPLY WITH THE BELL ATLANTIC/NYNEX MERGER CONDITIONS

A. Bell Atlantic's Non-Compliance with OSS Interface Requirements (Condition No. 2)

As a condition to the Commission's approval of the Bell Atlantic/NYNEX merger, Bell Atlantic is required to provide "uniform interfaces for use by carriers purchasing interconnection to obtain access to operations support systems" throughout the Bell Atlantic/NYNEX region. Merger Order, Att. C at 2. These uniform interfaces are to include both a Graphical User Interface ("GUI")-based or other comparable interface and an EDI-based or comparable application to application interface. *Id.*

In its February 1, 1999 Report, Bell Atlantic claims that every carrier operating in Bell Atlantic's region has available to it common interfaces that allow it to access OSS functions, including pre-ordering, ordering, maintenance and repair, and billing. Report at 4. Bell Atlantic does offer carriers a Web-based GUI, Report at 6, which NorthPoint utilizes for placing its orders. Although these interfaces may be "available," they are not functioning properly. As a result, NorthPoint has experienced devastating problems with its pre-orders and orders, which have resulted in substantial delays, a backlog of NorthPoint orders, and the loss of customers.

Specifically, Bell Atlantic's vaunted ordering GUI --"DCAS" -- does not work. For months, Bell Atlantic has failed to provide responses to NorthPoint loop orders. Orders have been "rejected" or "confirmed" for installation without *any* notice to NorthPoint (or, as a result, to end-users). These problems have resulted in Bell Atlantic dispatching technicians to end-user premises without notice (where end-users often are unprepared to provide access), in canceling confirmed orders without notice, or in frustratingly long waits with no answers about service availability. Despite repeated demands for acknowledgment and repair from NorthPoint, Bell

Atlantic first insisted the errors were NorthPoint's (even "proving" the case by pointing to "time stamps" on order responses). Last month, however, Bell Atlantic acknowledged that this was a pervasive Bell Atlantic problem with no obvious solution in sight. To date it remains unresolved.

Bell Atlantic's defective OSS also has improperly resulted in the "cancellation" of live circuits that are providing service to NorthPoint. NorthPoint was able to reinstate service by issuing a series of Bell Atlantic "trouble tickets," but the harm is done. Because Bell Atlantic failed to properly track live circuits, NorthPoint's reputation suffers.

Bell Atlantic claims that it "has met the requirement to deploy uniform interfaces . . . through the region within 15 months of merger approval." Report at 7. Deployment of malfunctioning interfaces, however, does not meet this requirement. As noted above, Bell Atlantic's GUI interface, which it touts as a common interface for carriers throughout its region, still does not provide carriers with the pre-ordering and ordering access they need. Bell Atlantic's failure to provide properly functioning interfaces has been extremely detrimental to NorthPoint's ability to provide high quality DSL services to end users.

B. Bell Atlantic's Non-Compliance with Good Faith Negotiations on the Establishment of Performance Standards (Condition No. 7)

Bell Atlantic also is required to "engage in good faith negotiations with carriers purchasing interconnection in response to reasonable requests to establish performance standards." Merger Order, Att. C at 5. Performance standards must be established for pre-ordering, ordering, provisioning, billing, maintenance and repair, and network performance. *Id.* In addition, Bell Atlantic must adopt appropriate enforcement mechanisms for ensuring compliance with these standards. *Id.* In NorthPoint's experience, however, Bell Atlantic's performance standards are not being met, both under the terms of the agreements between the parties and Bell Atlantic's own internal policies. Listed below is a description of Bell Atlantic's acts which reflect its failure to meet performance standards that are critical to NorthPoint's ability to provide its services to its customers.

(1) Bell Atlantic Declines to Acknowledge Existing Provisioning Intervals for Unbundled Loops in its Contract With NorthPoint

Schedule 8.1 of the Bell Atlantic (Mass) – NorthPoint interconnection agreement provides that "premium" loops are to be installed within 5 days of the receipt of a valid order. (ICA, Schedule 8.1, ¶ III.5.) Because NorthPoint's UNE requests are limited to transport and loops, the inclusion of a 5-day loop interval was a substantial focus in the interconnection discussions.

In September, 1998, in the face of consistent failures by Bell Atlantic to meet this provisioning interval, and assertions by Bell Atlantic that it had no processes in place to permit it to meet this obligation, NorthPoint wrote to Bell Atlantic and requested that this problem be remedied. In its response, Bell Atlantic simply denied that the provisioning intervals for "premium links – two-wire digital" in schedule 8.1 pertained to anything other than "transport," and – to the extent that the "digital loop" interval pertained to UNE loops, "BA-MA does not believe either of the FOC intervals (Schedule 8.1 or Section 9.7.1.) were established with other than unbundled *analog loops* in mind." (Yanez Ltr, October 7, 1998.)

Even without complying with the intervals in its contracts, Bell Atlantic continues to fail to meet its own commitments. According to NorthPoint's records, in all of Bell Atlantic territory from January 1, 1999 to March 5, 1999, Bell Atlantic failed to honor its *own* firm order commitments (regardless of whether they were within the five-day interval) as much as 23% of the time.

(2) Failure to Provide Critical "Demarc" Information

Bell Atlantic technicians are failing to provide critical demarcation information necessary to identify the loop pair at the customer premises. The "demarc" information identifies the NorthPoint unbundled network element loop and is used by NorthPoint's inside wire technicians to connect the copper pair at the utility closet to the end user's inside wire. Bell Atlantic's failure to provide this "demarc" information means that NorthPoint's inside wire technicians cannot identify the NorthPoint loop, and therefore cannot complete service. NorthPoint's technicians must then be redispatched again after another Bell Atlantic technician returns to provide the proper "demarc" information.

Bell Atlantic acknowledges that this "demarc"information should be properly provided, and on January 21, 1999, established a special help desk to remedy its failures to provide "demarc" information to NorthPoint. Nevertheless, between that date and March 5, 1999, 13% of NorthPoint's loop orders have been delayed because Bell Atlantic fails to provide "demarc" data.

(3) Failure to Test Circuits

Bell Atlantic technicians also are failing to test newly installed unbundled loop circuits as required by Bell Atlantic's policies. Circuits that are not properly tested often do not work and require repeated dispatches of Bell Atlantic's technicians to the customer premises for "repairs." As a result, frustrated end users must deal with repeated service calls and delays that are otherwise unnecessary. Moreover, end users and NorthPoint face unnecessary costs. The end users associate this problem with NorthPoint, and not the true source, Bell Atlantic.

Bell Atlantic's failure to regularly test circuits before providing them to NorthPoint as "completed" causes substantial disruption in NorthPoint services. Since January 1, 1999, more than 5% of NorthPoint's loop orders were not properly cross-connected at the Main Distribution

Frame to NorthPoint's collocation space, and did not work. This requires repeated "trouble ticket" calls and delays the installation of service. In one case, a service order placed on December 4, 1998, was not completed until the end of February, 1999, because Bell Atlantic not only failed to properly test the circuit at installation, but ordered its technicians *not* to work with NorthPoint in "vendor meets" to conduct joint field testing After more than 60 notations by NorthPoint provisioners detailing attempts to cause Bell Atlantic to install a working circuit, and repeated complaints from the end-user and NorthPoint NSP customer about poor service by NorthPoint, Bell Atlantic finally located its error and installed a working circuit.

Bell Atlantic has acknowledged that NorthPoint has paid for and is entitled to such circuit testing, but has failed to remedy the problem despite months of promises to resolve to do so.

(4) Failure to Provide Necessary Pre-Ordering Information

Bell Atlantic also refuses to make available pre-ordering information on loop condition and length. DSL services require both all clean copper loops and loops no longer than 23,000 feet. Without pre-ordering information, NorthPoint has no means of determining whether the loop will be capable of carrying the service ordered by the end user until after the unbundled loop is provisioned. When these loops fail to meet end users' needs, NorthPoint must cancel UNE orders and bear the non-recurring and recurring charges imposed by Bell Atlantic. Moreover, the absence of meaningful pre-order information on loop quality is anti-competitive and discriminatory. "Blind ordering" greatly impedes the quality of the service that NorthPoint can provide to its NSP customers and puts NorthPoint at a substantial competitive disadvantage to Bell Atlantic, which has this information readily available to provisioners where Bell Atlantic vends DSL services.

(5) Collocation Issues

As part of NorthPoint's market entry, it must purchase collocation in incumbent LEC central offices. NorthPoint has experienced several critical problems with Bell Atlantic's collocation procedures, including the provision of late collocation space, incomplete collocation space, and the delivery to NorthPoint of collocation space for which NorthPoint had never applied.

(6) Failure to Provide Carrier Facilities Assignments

Even after Bell Atlantic delivers the collocation space, it impedes the use of this space by mishandling the delivery of critical "Carrier Facilities Assignments" or CFAs. NorthPoint must use these CFAs to order transport and other services that are a prerequisite to initiating service from a wire-center.[2] Many times, these CFAs are withheld for weeks, and when provided, often are rejected by Bell Atlantic's ordering system. Thus, although a collocation cage may be available, it is basically rendered useless without the CFA. The result is to substantially delay the ability of NorthPoint to provide its customers with broadband access services.

Section 251(c)(6) of Telecommunications Act requires that ILECs provide collocation on *rates, terms and conditions that are just, reasonable and nondiscriminatory.* Thus, the provision of collocation and unbundled elements are more than a *de minimus* leasing arrangement. Rather, these services must be made available in a manner that "facilitates" the provision of services, not delays or impedes it. See e.g., FCC Rule 515.307(c). To comply with this standard, Bell Atlantic must not engage in conduct that frustrates the use of collocation space or unbundled elements.

For several months, and despite repeated protests and inquires from NorthPoint, Bell Atlantic has flouted, ignored, or simply failed to abide by the requirements of the Act and Commission orders. While NorthPoint has sought to resolve these various issues with the

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[2] Bell Atlantic requires that each wholesale customer identify itself and its cage location when placing orders for UNEs. Bell Atlantic issues each carrier a code and that code must be used when placing orders to outfit a collocation space or to provision loops. Bell Atlantic will reject orders without an accurate CFA.

appropriate Bell Atlantic counterparts or as directed by Bell Atlantic, these efforts have proven fruitless. Bell Atlantic's monopoly position and its intransigence in the face of clear legal obligations are the manifestation of the Commission's apt warning that "incumbent LECs have the incentive and the ability to engage in many kinds of discrimination. * * * [I]incumbent LECs could potentially delay providing access to unbundled network elements, or they could provide them to new entrants in a degraded level of quality." *First Report & Order* at ¶ 307.

* * *

Overall, Bell Atlantic's failure to meet the performance standards as required by the Merger Order, as well as Bell Atlantic's interconnection agreements and own internal policies has undermined NorthPoint's ability to provide high quality telecommunications services to its customers. The purpose of the performance standards is to "increase the likelihood that other entrants will be able to establish a brand reputation over time for providing high quality telecommunications services." Merger Order at 14. Instead, NorthPoint is delayed in reaching new customers and is losing potential customers to Bell Atlantic because of Bell Atlantic's failure to comply with performance standards for ordering, provisioning, maintenance and repair, and network performance. More importantly, Bell Atlantic's poor performance "gates" competitors while Bell Atlantic secures a competitive advantage and is free to pursue its own products and services in the DSL market.

In its Merger Order, the Commission declined to adopt specific performance standards because it lacked the data at the time to establish the appropriate intervals for such standards. Merger Order at para. 215. It is clear, however, that specific performance standards are necessary. The Commission should be able to establish such standards with the information provided in this proceeding. For example, it is reasonable to require that Bell Atlantic deliver all unbundled elements in a manner that is just, reasonable, and nondiscriminatory and that 100% of

UNE loop circuits work. It is reasonable to require Bell Atlantic to provide parity services to competitive LECs – including the availability of meaningful pre-order loop information, the availability of DSL capable loops, the installation of working circuits properly tested, the provision of "demarc" information, and the maintenance of competitors' UNE circuits without arbitrary cancellations. The Commission also could require Bell Atlantic (and other ILECs for that matter) to provide collocation quotes within 10 days of the request.

Because Bell Atlantic's poor performance has a direct and negative impact on competitors' ability to provide competing services to consumers, the establishment of performance standards is critical to realizing competition in Bell Atlantic's region.

IV. SUNSET PROVISION

In its Merger Order, the Commission concluded that Bell Atlantic's obligation to adhere to the commitments established in that decision would expire 48 months after the Commission's approval of the merger. Merger Order, Att. C at 5. At the time, the Commission believed that four years would be a sufficient amount of time for the conditions to have had a positive impact on competition in Bell Atlantic's region. This belief, however, is based on the assumption that these conditions would be met. They have not been met. As a result, consumers have not yet realized the full benefits of a truly competitive local exchange market in the Bell Atlantic region. It is critical to the deployment of competition that the Commission extend this sunset provision for at least another two to four years.

V. PROPOSALS

A. Enforcement and Sanctions

Although the Commission clearly cannot "unwind" the transaction, it can take other actions to mitigate Bell Atlantic's non-compliance which has harmed competition and consumers. First, the Commission can implement steps to more closely monitor Bell Atlantic's compliance with these conditions and take more stringent enforcement measures. Second, the Commission can impose sanctions on Bell Atlantic. For example, Bell Atlantic should be required to compensate carriers for the damages incurred to their business as a result of Bell Atlantic's actions. The Commission also should impose a substantial forfeiture on Bell Atlantic for each act of non-compliance. If Bell Atlantic fails to meet these requirements or pay the necessary fines within a certain time frame, some or all of its licenses should be revoked.

B. Commission Should Deny the Bell Atlantic/GTE Merger

Bell Atlantic's actions in this case also should be considered in the context of its proposed transaction with GTE. In its Merger Order, the Commission held that because its approval of the merger reduced the number of independently controlled large incumbent LECs, "future applicants bear an additional burden in establishing that a proposed merger will, on balance, be pro-competitive" and in the public interest. Merger Order at para. 16. The proposed transaction between Bell Atlantic and GTE would allow the merger of yet two more already dominant incumbent local exchange carriers, both of which have not made a commitment to the market opening measures required under the law. Bell Atlantic already has demonstrated that it will not adhere to the commitments that served as the basis for the Commission's approval of its transaction with NYNEX. The Commission cannot allow another transaction between Bell Atlantic, a carrier that refuses to open competition in its markets or to abide by obligations designed to open those markets, and GTE, another dominant local exchange carrier, with a nationwide practice and a well-established history of anti-competitive behavior. In light of Bell Atlantic's and GTE's action, the proposed transaction clearly is contrary to the public interest.

C. Section 271 Considerations

Collectively, Bell Atlantic's actions amount to "worst practices" which are much worse than other ILECs. NorthPoint finds it puzzling that despite the perception that Bell Atlantic may be one of the first ILECs to meet the Section 271 requirements, when it comes to DSL provisioning, Bell Atlantic is, without a doubt, the worst ILEC. Section 271 authority should be considered only for those best performing ILECs, which, at the present time, does not include Bell Atlantic.

VI. CONCLUSION

For the foregoing reasons, the Commission must impose more stringent requirements on Bell Atlantic's existing conditions and should adopt additional conditions if it wants true local exchange competition to be realized in Bell Atlantic's region. The Commission should also impose on Bell Atlantic sanctions, such as the award of damages, imposition of forfeitures, and license revocation. Finally, in light of Bell Atlantic's continued and willful non-compliance, the Commission should deny the application for approval of the Bell Atlantic/GTE transaction.

Respectfully submitted,

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Dated: March 8, 1999

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CERTIFICATE OF SERVICE

I, Valerie M. Steen, hereby certify that on this 8th day of March, 1999, I served a copy of the foregoing Comments of NorthPoint Communications in File No. AAD 98-24 by hand delivery or first-class mail on the following active parties:

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